

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Christopher M. Gratz, Planner II

SUBJECT: Ordinance 1st Reading/Quasi-judicial, ZB 12-1-02 Christina Rodriguez/
Pablo Averbuj, 5150 Davie Road /Generally located on the east side of
Davie Road, approximately 3500' north of Stirling Road

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT AND RO, RESIDENTIAL/OFFICE DISTRICT TO RM-5, LOW MEDIUM DENSITY DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The petitioner has requested to rezone the 2.31 gross acres subject site from: A-1, Agricultural District and RO, Residential/Office District to: RM-5, Low Medium Density Dwelling District in order to allow development of 11 townhouses. The Future Land Use Plan Map designates the parcel Residential (5 DU/AC). The Future Land Use Plan allows multi-family dwellings to be developed in this residential land use category. The requested zoning classification, RM-5, Low Medium Density Dwelling District, allows for townhouses to be developed. The parcel exceeds the Land Development Code's minimum requirements needed to gain the zoning designation. Minimum lot size required is 7,000 square feet, and the subject site is 100,426 square feet, or 2.31 gross acres. Minimum frontage required is 100 feet, and the subject site has 120 feet of frontage on Davie Road.

PREVIOUS ACTIONS: None

CONCURRENCES: At the January 22, 2003, Planning and Zoning Board meeting, Mr. Waitkus made a motion, seconded by Ms. Lee, to approve. (Motion carried 5-0)

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Ordinance, Planning Report, Justification, Land Use Map, Zoning and Aerial Map

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT AND RO, RESIDENTIAL/OFFICE DISTRICT TO RM-5, LOW MEDIUM DENSITY DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of certain lands within the Town be changed from A-1, Agricultural District and RO Residential/Office District to RM-5, Low Medium Density Dwelling District;

WHEREAS, said notice was given and publication made as required by law, and a public hearing there under was held on the date of the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the property herein after described be and the same is hereby rezoned and changed from A-1, Agricultural District and RO Residential/Office District to RM-5, Low Medium Density Dwelling District:

a. The subject property is described in Exhibits "A" and "B", which are attached hereto and made a part hereof;

SECTION 2. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property described in Section 1, herein, as RM-5, Low Medium Density Dwelling District.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2003.

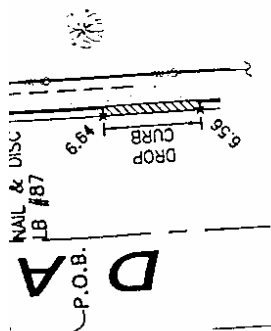
PASSED ON SECOND READING THIS _____ DAY OF _____, 2003.

ATTEST:

MAYOR/COUNCILMEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003.



394 *
L O T 1

LEGAL DESCRIPTION:

The South one-half ($\frac{1}{2}$) of the West one-half ($\frac{1}{2}$) of Tract 63 "EVERGLADES LAND SALES COMPANY SUBDIVISION of Section 35, Township 50 South, Range 41 East, Plat Book 2, Page 34, of the Public Records of Dade County, Florida, excepting therefrom the following described Parcel of Land: Beginning at the Southwest corner of the South one-half ($\frac{1}{2}$) of the West one-half ($\frac{1}{2}$) of Tract 63, thence North 01 degree 59 minutes 17 seconds West for 45.00 feet, thence North 88 degrees 14 minutes 30 seconds East for 193.00 feet, thence South 01 degree 59 minutes 17 seconds East for 45.00 feet, thence South 88 degrees 14 minutes 30 seconds West for 193.00 feet to the Point of Beginning. Commonly Known as the "DAVIE TRACT", said lands lying, situate and being in Broward County, Subject to Rights-of-way of Record.

CERTIFIED TO:

Regent Bank, its successors and/or
assigns, as their interest may appear
Pablo Averbuj
Esquire Title, Inc.
Commonwealth Land Title Insurance Company

HEREBY CERTIFY: That this "SKETCH OF SURVEY" of the property described hereon is true and correct to the best of my knowledge and belief as recently surveyed and drawn under my supervision and direction in accordance with the Minimum Technical Standards adopted

TOWN OF DAVIE
Development Services Department
Planning and Zoning Division Staff
Report and Recommendation

Applicant Information

<u>Owner:</u>		<u>Agent:</u>	
Name:	Pablo Averbuj	Name:	Christina Rodriguez
Address:	2109 Nova Village Drive	Address:	2109 Nova Village Drive
City:	Davie, FL 33317	City:	Davie, FL 33317
Phone:	(954) 473-1682	Phone:	(954) 473-1682

Background Information

Date of Notification: January 15, 2003 **Number of Notifications:** 22

Application History: No deferrals have been requested.

Application Request: Rezone the 2.31 gross acres subject site **FROM:** A-1, Agricultural District and RO, Residential/Office District; **TO:** RM-5, Low Medium Density Dwelling District.

Address/Location: 5150 Davie Road/Generally located on the east side of Davie Road, approximately 3500' north of Stirling Road.

Future Land Use Plan Designation: Residential (5 DU/AC)

Zoning: A-1, Agricultural District and RO, Residential/Office District

Existing Use: Vacant

Proposed Use: 11 townhouses

Parcel Size: 2.31 gross acres (100,426 square feet)
2.16 net acres (94,063 square feet)

	<u>Surrounding Uses:</u>
North:	Single family dwelling, Vacant
South:	Single family dwelling, Vacant
East:	Victoria Villa
West:	Batten's Farm

<u>Surrounding Land</u>
<u>Use Plan Designation:</u>
Residential (5 DU/AC)
Residential (5 DU/AC)
Residential (1 DU/AC)
Residential (5 DU/AC)

Surrounding Zoning:

North: A-1, Agricultural District and RO, Residential/Office District
South: A-1, Agricultural District
East: CF, Community Facilities District
West: A-1, Agricultural District

Zoning History

Previous Requests on same property: Rezoning petition ZB 1-1-85 Town of Davie, changing the designation from RS-5 to RO, Residential/Office, was approved on January 2, 1985.

Application Details

The petitioner has requested to rezone the 2.31 gross acres subject site from: A-1, Agricultural District and RO, Residential/Office District to: RM-5, Low Medium Density Dwelling District in order to allow development of 11 townhouses.

Applicable Codes and Ordinances

Section 12-307 of the Land Development Code, review for rezonings.

Section 12-81 of the Land Development Code, Conventional Multi-family Development Standards, RM-5, Low Medium Density Dwelling District, requires the following minimums: lot area of 7,000 square feet, frontage of 100 feet, front setback of 25 feet, side and rear setbacks of 20 feet, maximum building height of 25 feet.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 9. This Planning Area is south of Griffin Road, generally north of Stirling Road, east of SW 76 Avenue and west of the Florida Turnpike. This area is predominantly agricultural in nature with scattered low-density single-family residential development. Low profile commercial development lines the Griffin Road, Davie Road, and Stirling Road corridors.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 102. Platting of the subject site is required.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-2:* No property within the Town shall be rezoned to a zoning district that is not in compliance with the Davie Future Land Use Plan.

Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-7: Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living and working environments.

Staff Analysis

This request will allow the subject site to be developed with 11 townhouses. The parcel exceeds the Land Development Code's minimum requirements needed to gain the zoning designation. Minimum lot size required is 7,000 square feet, and the subject site is 100,426 square feet, or 2.31 gross acres. Minimum frontage required is 100 feet, and the subject site has 120 feet of frontage on Davie Road.

Land Use and Zoning: The Future Land Use Plan Map designates the parcel Residential (5 DU/AC). The Future Land Use Plan allows multi-family dwellings to be developed in this residential land use category. The requested zoning classification, RM-5, Low Medium Density Dwelling District, allows for townhouses to be developed.

Compatibility: Townhouses may be considered compatible with the surrounding uses. The subject site is an area of transition between single family, agricultural, and residential/office use. The adjacent parcel to the north is developed with a single family dwelling, zoned RO, Residential/Office District, with vacant land zoned A-1, Agricultural District, to the south is a single family dwelling and vacant land zoned A-1, Agricultural District, to the west is Davie Road, and to the east is the special residential facility known as Victoria Villa.

Findings of Fact

Rezoning:

Section 12-307(A) (1):

The following findings of facts apply to the rezoning request:

- (a) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

The Future Land Use Plan Map designates the parcel as Residential (5 DU/AC), and the comprehensive plan allows multi-family dwellings to be developed in this residential land use category.

- (b) The proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

The requested RM-5, Low Medium Density Dwelling District is related and compatible with the adjacent RO, Residential/Office District, A-1, Agricultural District, and CF, Community Facilities zoning designations. The parcel to the north is developed with a single family dwelling with vacant land, to the south is a single family dwelling and vacant land, to the west is Davie Road, and to the east is the special residential facility known as Victoria Villa.

- (c) Existing zoning district boundaries are logically drawn in relation to existing conditions on the property proposed for change;

The existing A-1, Agricultural District and RO, Residential/Office District boundaries are logically drawn.

- (d) The proposed change will not adversely affect living conditions in the neighborhood;

Development of 11 townhouses will not have adverse impacts on the surrounding area.

- (e) The proposed change will not create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;

The traffic generated by 11 townhouses is what the land use plan anticipated. Prior to final approval of plats by Broward County, traffic impacts are assessed and concurrency must be met.

- (f) The proposed change will not adversely affect other property values;

Surrounding property values will not be adversely impacted by development of this vacant site.

- (g) The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations;

Development of the subject site will not deter development or improvement of adjacent parcels.

- (h) The proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

This request is a privilege that can be afforded to any owner that has a parcel that meets the Land Development Code's minimum requirements to achieve the zoning classification.

- (i) There are not substantial reasons why the property cannot be used in accord with existing zoning.

The subject site can be developed according to the existing zoning district standards; however the requested designation is consistent with the land use plan.

- (j) The proposed zoning designation is the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the Future Land Use Plan Map, appropriate land use planning practice, and comprehensive plan policies directing land use location.

The proposed zoning designation is consistent with the Future Land Use Plan Map, adjacent to an arterial roadway, and is therefore the most appropriate designation to enhance the Town's tax base.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the January 22, 2003, Planning and Zoning Board meeting, Mr. Waitkus made a motion, seconded by Ms. Lee, to approve. (Motion carried 5-0)

Exhibits

1. Justification
2. Land Use Map
3. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

**TOWN OF DAVIE
REZONING APPLICATION**

**REZONING JUSTIFICATION
"ROYAL LEGACY" PLAT**

This property contains 2.17 Acres, more or less and is currently located within the following zoning districts: 1) RO (Residential Office); and 2) A1 (Agricultural). In connection with the development of this property, the owner seeks to rezone the property to RM-5 (Low Medium Dwelling District) which will allow the construction of eleven (11) townhouse residences. As explained in the following nine (9) statements the rezoning request is consistent with the rezoning criteria as set forth in the Town of Davie Land Development Code and will be the most rational use of this property.

1. **The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;**

The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof, because the requested change will bring this property into conformance with the zoning district as shown on the comprehensive plan, as amended.

2. **The proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;**

The proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts, but will bring this property into conformance with the comprehensive plan, as amended, and surrounding property.

3. **Existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

This property is currently vacant, however, the existing zoning district boundaries are illogically drawn in relation to the proposed use of this property according to the comprehensive plan, as amended.

4. **The proposed change will adversely affect living conditions in the neighborhood;**

The proposed zoning change will not adversely affect the living conditions of the neighborhood but rather improve the conditions by the clearing and cleaning of the overgrown vacant property and the construction of a new subdivision which will also enhance the value of surrounding improvements.

5. **The proposed change will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety;**

**EXHIBIT B
Page 1 of 2 Pages**

t:\kathy\ron\royal legacy.1.doc

**TOWN OF DAVIE
REZONING APPLICATION**

**REZONING JUSTIFICATION
"ROYAL LEGACY" PLAT**

The proposed zoning change will not create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety. There are only 11 units proposed for this site, which keeps the traffic count well within the allowed trip count. Also, the clearing and cleaning of this vacant property will eliminate potential hiding places and dumping ground.

6. The proposed change will adversely affect other property values;

The proposed change will not adversely affect surrounding property because the clearing and cleaning of the vacant property and the construction of the proposed improvements will eliminate a dumping ground and increase the value of the surrounding property.

7. The proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations;

The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations because the property is being rezoned to conform with the comprehensive plan, as amended, which will bring more interest to the area due to more unity in the zoning breakdown.

8. The proposed change will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

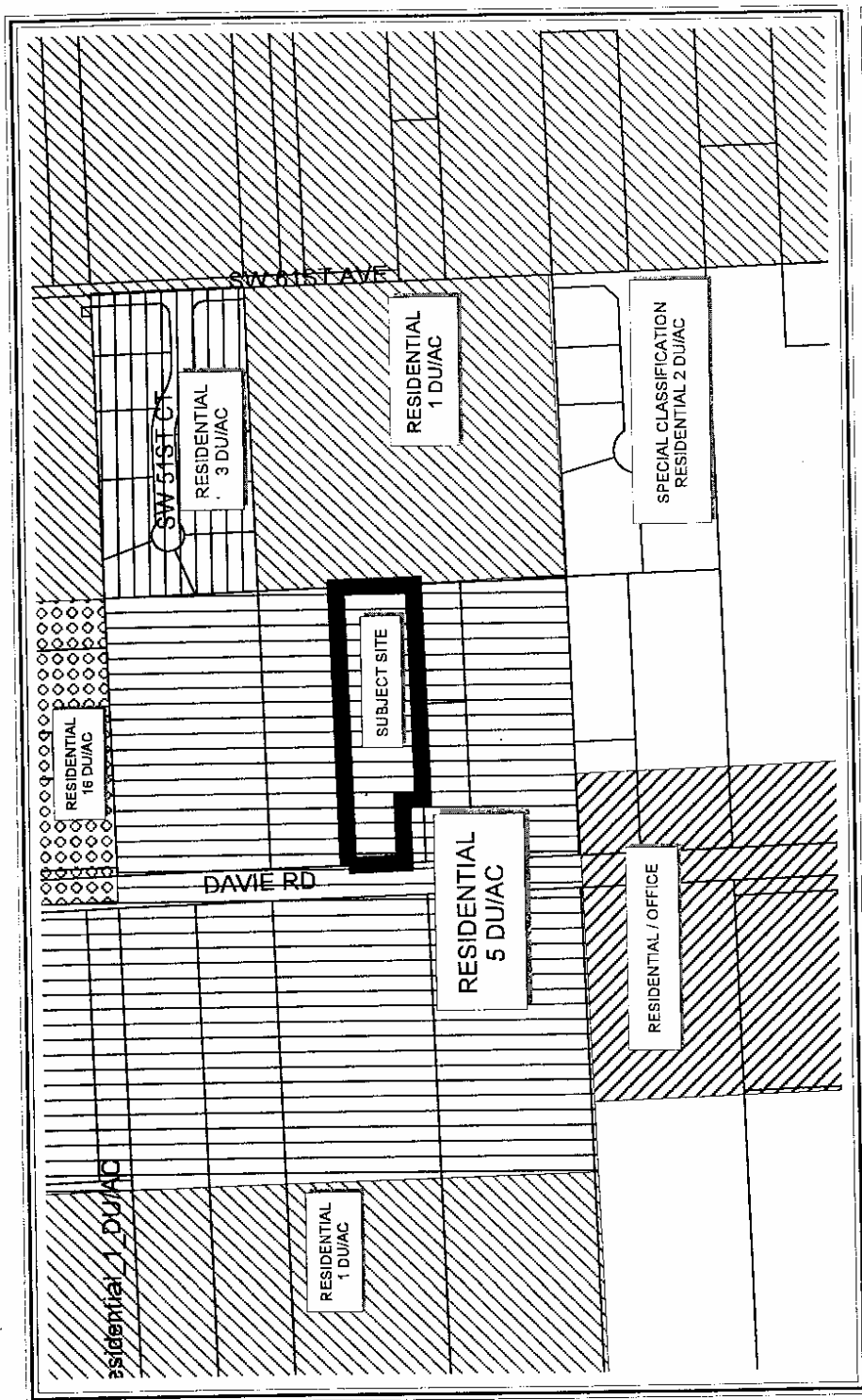
The proposed change will not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public because the rezoning is only to bring this property into conformance with the comprehensive plan, as amended.

9. There are substantial reasons why the property cannot be used in accord with existing zoning.

The substantial reason why this property cannot be used in accordance with existing zoning is that this property currently falls within several zoning districts (i.e. Community Facility, Residential Office, and Agricultural). Also, the current comprehensive plan, as amended, designates this property as RM-5 (Low Medium Dwelling District).

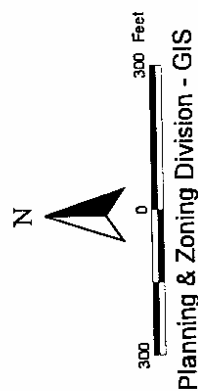
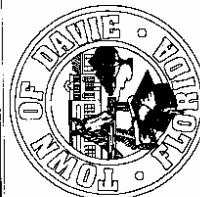
**EXHIBIT B
Page 2 of 2 Pages**

t:\kathy\ron\royal legacy.1.doc



REZONING ZB 12-1-02 Future Land Use Map

Date Prepared: 1/7/02
Prepared By: ILD





REZONING **ZB 12-1-02** **Zoning and Aerial Map**

Date Prepared: 1/17/02
 Prepared By: JLD



Date Flown:
 12/31/00



300 0 300 600 Feet

Planning & Zoning Division - GIS